

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LUIS RODRIGUEZ-RAMOS,
and GERMAN EXPECTACION
ROBLES-GARCIA,

Defendants.

No. CR 10-4011-MWB

**INSTRUCTIONS
TO THE JURY**

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VERDICT FORM

INSTRUCTION NO. 1 - INTRODUCTION

Members of the jury, I am giving you these Instructions to help you better understand the trial and your role in it. Consider these instructions, together with all written and oral instructions that I may give you during or at the end of the trial, and apply them as a whole to the facts of the case.

As I explained during jury selection, in an Indictment, a Grand Jury charges defendants Rodriguez-Ramos and Robles-Garcia with a “drug conspiracy,” and charges defendant Robles-Garcia with “kidnapping.” As I also explained during jury selection, an Indictment is simply an accusation. It is not evidence of anything. The defendants have pled not guilty to the crimes charged against them, and each is presumed to be innocent of any offense charged against him unless and until the prosecution proves his guilt on that offense beyond a reasonable doubt.

Your duty is to decide from the evidence whether each defendant is not guilty or guilty of the charge or charges against him. You will find the facts from the evidence. You are the sole judges of the facts, but you must follow the law as stated in these instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, based solely on the evidence, your common sense, and the law in these instructions. Do not take anything that I have said or done during jury selection or that I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be. Similarly, do not conclude from

any ruling or other comment that I have made or may make that I have any opinions on how you should decide the case.

Please remember that only defendants Rodriguez-Ramos and Robles-Garcia, not anyone else, are on trial here. Also, remember that each defendant is on trial *only* for the offense or offenses charged against him in the Indictment, not for anything else.

Each defendant is entitled to have the charge or charges against him considered separately based solely on the evidence that applies to him. *Therefore, you must give separate consideration to each charge against each defendant and return a separate, unanimous verdict on each charge against each defendant.*

INSTRUCTION NO. 2 - PRELIMINARY MATTERS

Before I turn to specific instructions on the offenses charged in this case, I must explain some preliminary matters.

“Elements”

Each offense consists of “elements,” which the prosecution must prove beyond a reasonable doubt against a defendant charged with that offense for you to find that defendant guilty of that offense. I will summarize in the following instructions the elements of the offenses with which the defendants are charged.

Timing

The Indictment alleges that the offenses were committed “from” an unknown date and “continuing through” another date or “on or about” a specific date. The prosecution does not have to prove with certainty the exact date of a charged offense. It is sufficient if the evidence establishes that the charged offense occurred within a reasonable time of the dates alleged for that offense in the Indictment.

Methamphetamine and Cocaine

The “drug conspiracy” charged in **Count 1** allegedly involved “methamphetamine” and “cocaine.” “Methamphetamine” and “cocaine” are both “controlled substances” regulated under federal law. The “drug conspiracy” offense allegedly involved either or both of the following forms of methamphetamine: (1) “a mixture or substance containing a detectable amount of methamphetamine,” which I will call simply “a methamphetamine mixture,” and (2) “actual (pure) methamphetamine.” “Actual (pure) methamphetamine” is

methamphetamine itself—that is, either by itself or contained in a mixture or substance. A “methamphetamine mixture” is a mixture or substance containing a detectable amount of “actual (pure) methamphetamine.”

“Knowledge” and “intent”

The elements of the charged offenses may require proof of the defendants’ “knowledge” and “intent.” A defendant’s mental state must be proved beyond a reasonable doubt. It is seldom, if ever, possible to determine directly the operations of the human mind. Nevertheless, mental states may be proved like anything else, from reasonable inferences and deductions drawn from the facts proved by the evidence.

An act was done “knowingly” if the defendant was aware of the act and did not act through ignorance, mistake, or accident. The prosecution is not required to prove that the defendant knew that his acts or omissions were unlawful.

An act was done “intentionally” if the defendant did the act voluntarily, without coercion, and not because of ignorance, mistake, accident, or inadvertence.

“Possession,” “Distribution,” and “Delivery”

A person has possession of something if the person knows of its presence and has physical control of it, or knows of its presence and has the power and intention to control it. More than one person can be in possession of something if each knows of its presence and has the power and intention to control it.

The term “distribute” means to deliver an item, such as methamphetamine or cocaine, to the possession of another person. The term “deliver” means the transfer or attempted transfer of an item, such as methamphetamine or cocaine, to the

possession of another person. It does not require proof of a “sale” of methamphetamine or cocaine. Therefore, it is not necessary that money or anything of value changed hands for you to find that there was a “conspiracy” to distribute methamphetamine or cocaine.

* * *

I will now give you more specific instructions about the offenses charged in the Indictment.

INSTRUCTION NO. 3 - COUNT 1: THE DRUG CONSPIRACY CHARGE

Count 1 of the Indictment charges both defendants with being part of the same “drug conspiracy.” For you to find a particular defendant guilty of this “drug conspiracy” offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements against that defendant:

One, from a date unknown but prior to April 2009 and continuing through about February 2010, two or more persons reached an agreement or understanding to commit one or more of the offenses alleged to be objectives of the conspiracy.

A conspiracy is a kind of criminal partnership—an agreement of two or more persons to commit one or more crimes. The crime of conspiracy is the agreement to do something unlawful; it does not matter whether the crime agreed upon was committed.

For a conspiracy to have existed, it is not necessary that the conspirators made a formal agreement or that they agreed on every detail of the conspiracy. It is not enough, however, that they simply met, discussed matters of common interest, acted in similar ways, or perhaps helped one another. You must find that there was a plan to commit at least one of the crimes alleged in the indictment as an object of the conspiracy with all of you agreeing as to the particular crime which the conspirators agreed to commit.

To help you decide whether a distributing a particular controlled substance was an “objective” of the conspiracy, you should consider the elements of a “distribution” objective. The elements of a “*distributing*”

objective are the following: (1) on or about the date alleged, a person intentionally distributed a controlled substance to another; and (2) at the time of the distribution, the person knew that what he or she was distributing was a controlled substance.

Two, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect.

One becomes a member of a conspiracy by voluntarily and intentionally participating in the unlawful plan with the intent to advance or further some object or purpose of the conspiracy, even though the person does not have full knowledge of all the details of the conspiracy. Furthermore, one who voluntarily and intentionally joins an existing conspiracy is as responsible for it as the originators.

On the other hand, evidence that a person was merely present at the scene of an event, or merely acted in the same way as others, or merely associated with others does not prove that the person joined in an agreement or understanding. A person who had no knowledge of a conspiracy, but who happened to act in a way that advanced some purpose of one, did not thereby become a member. Similarly, the defendant's mere knowledge of the existence of a conspiracy, or mere knowledge that an objective of the conspiracy was being contemplated or attempted, or mere approval of the objectives of the conspiracy is not enough to prove that he joined in the conspiracy; rather, the prosecution must establish that there was some degree of knowing involvement and cooperation by the defendant.

A conspiracy may continue for a long period of time and may include the performance of many transactions. It is not necessary that all members of the conspiracy join it at the same time, and one may become a member of a conspiracy without full knowledge of all the details of the unlawful scheme or the names, identities, or locations of all of the other members.

Even though a defendant did not directly conspire with all of the other conspirators in the overall scheme, the defendant has, in effect, agreed to participate in the conspiracy if it is proved beyond a reasonable doubt that: (1) the defendant directly conspired with one or more conspirators to carry out at least one of the objects of the conspiracy, (2) the defendant knew or had reason to know that other conspirators were involved with those with whom the defendant directly conspired, and (3) the defendant had reason to believe that whatever benefits the defendant might get from the conspiracy were probably dependent upon the success of the entire venture.

Also, a person may be a member of a conspiracy even though the person does not know all of the participants in the conspiracy. Similarly, it is no defense that a person's participation in a conspiracy was minor or for a short period of time.

Three, at the time that the defendant joined in the agreement or understanding, he knew the purpose of the agreement or understanding.

The defendant must have known of the existence and purpose of the conspiracy. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy. You may not find that the defendant knew the purpose of the agreement or understanding if you find that he was simply careless. A showing of negligence, mistake, or carelessness is not

sufficient to support a finding that the defendant knew the purpose of the agreement or understanding.

If the prosecution fails to prove these elements beyond a reasonable doubt as to a particular defendant, then you must find that defendant not guilty of the “drug conspiracy” offense charged in **Count 1** of the Indictment.

In addition, if you find a particular defendant guilty of this “drug conspiracy” offense, then you must also determine beyond a reasonable doubt the quantity of any controlled substance actually involved in the conspiracy for which he can be held responsible, as explained in Instruction No. 4.

INSTRUCTION NO. 4 - QUANTITY OF CONTROLLED SUBSTANCES

If you find a particular defendant guilty of the “drug conspiracy” charge, then you must determine beyond a reasonable doubt whether the offense actually involved a methamphetamine mixture, and/or actual (pure) methamphetamine, and/or cocaine, and, if so, the total quantity range of any cocaine and/or any form of methamphetamine involved in the offense for which the defendant can be held responsible, as explained below.

A defendant is responsible for the quantities of any methamphetamine mixture, actual (pure) methamphetamine, or cocaine that he actually distributed or agreed to distribute. He is also responsible for any methamphetamine mixture, actual (pure) methamphetamine, or cocaine that fellow conspirators actually distributed or agreed to distribute, if you find that the defendant in question could have reasonably foreseen, at the time that he joined the conspiracy or while the conspiracy lasted, that these acts were a necessary or natural consequence of the conspiracy.

If you find that the “drug conspiracy” involved a methamphetamine mixture, then you must indicate in the Verdict Form whether the defendant in question can be held responsible for 500 grams or more of a methamphetamine mixture, 50 grams or more but less than 500 grams of a methamphetamine mixture, or less than 50 grams of a methamphetamine mixture. If you find that the “drug conspiracy” involved actual (pure) methamphetamine, then you must indicate in the Verdict

Form whether the defendant in question can be held responsible for 50 grams or more of actual (pure) methamphetamine, 5 grams or more but less than 50 grams of actual (pure) methamphetamine, or less than 5 grams of actual (pure) methamphetamine. If you find that the “drug conspiracy” involved cocaine, then you must indicate in the Verdict Form whether the defendant in question can be held responsible for 5 kilograms (5,000 grams) or more of cocaine, 500 grams or more of cocaine but less than 5 kilograms or cocaine, or less than 500 grams of cocaine.

In making your determination of quantity as required, it may be helpful to remember that one pound is approximately equal to 453.6 grams and that one ounce is approximately equal to 28.34 grams. To put it the other way around, one kilogram is approximately equal to 2.2 pounds, and 0.028 of a kilogram is approximately equal to one ounce.

INSTRUCTION NO. 5 - COUNT 2: THE KIDNAPPING CHARGE

Count 2 of the Indictment charges defendant Robles-Garcia with “kidnapping.” For you to find defendant Robles-Garcia guilty of this “kidnapping” offense, the prosecution must prove beyond a reasonable doubt *all* of the following essential elements against him:

***One*, on or about December 13, 2009, defendant Robles-Garcia knowingly, voluntarily, and intentionally kidnapped Raul Tapia-Marroquin against Raul Tapia-Marroquin’s will.**

To “kidnap” a person means unlawfully to hold, keep, detain, and confine the person against that person's will. A person is “detained” when the person is held or confined against his will by physical restraint, fear, or deception for an appreciable period of time. The victim’s lack of consent is a fundamental element of kidnapping. Although you may find that the victim initially agreed to accompany the alleged kidnappers, this element is proved if you find that there is a point at which the victim no longer consented to accompany them. There can be no kidnapping before that point.

***Two*, defendant Robles-Garcia knowingly, voluntarily, and intentionally held Raul Tapia-Marroquin against his will for ransom or otherwise.**

The person kidnapped does not have to be held for ransom or other financial gain. This element is proved if you find that the person kidnapped was taken for some reason that the defendant considered of sufficient benefit to him or her, or for some purpose of his or her own. The Indictment charges that defendant Robles-Garcia

kidnapped Raul Tapia-Marroquin to force Raul Tapia-Marroquin to deliver to him currency, including profits of illegal drug sales. You must determine whether this was the defendant's purpose in holding Raul Tapia-Marroquin against his will, if you find that the defendant did, indeed, hold Raul Tapia-Marroquin against his will.

Three, defendant Robles-Garcia knowingly, voluntarily, and intentionally traveled to Iowa from another state in furtherance of the offense of kidnapping Raul Tapia-Marroquin.

The defendant must have knowingly, voluntarily, and intentionally traveled in furtherance of the kidnapping offense; he did not have to know that he was crossing state lines or entering Iowa. "Furtherance" should be given its plain meaning, which is "the act of furthering, advancing, or helping forward."

If the prosecution fails to prove these elements beyond a reasonable doubt as to defendant Robles-Garcia, then you must find him not guilty of the "kidnapping" offense charged in **Count 2** of the Indictment.

**INSTRUCTION NO. 6 - PRESUMPTION OF INNOCENCE
AND BURDEN OF PROOF**

Each defendant is presumed innocent and, therefore, not guilty. This presumption of innocence requires you to put aside all suspicion that might arise from a defendant's arrest or charge or the fact that he is here in court. The presumption of innocence remains with each defendant throughout the trial. That presumption alone is sufficient to find a defendant not guilty. The presumption of innocence may be overcome as to a particular defendant only if the prosecution proves, beyond a reasonable doubt, *all* of the elements of an offense charged against him.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. The burden never shifts to a defendant to prove his innocence. Therefore, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution. Similarly, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict.

Unless the prosecution proves beyond a reasonable doubt that a particular defendant has committed each and every element of an offense charged against him, you must find that defendant not guilty of that offense.

INSTRUCTION NO. 7 - REASONABLE DOUBT

A reasonable doubt may arise from the evidence produced by either the prosecution or a defendant, keeping in mind that no defendant ever has the burden or duty of calling any witnesses or producing any evidence. A reasonable doubt may also arise from the prosecution's lack of evidence. A reasonable doubt is a doubt based upon reason and common sense. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. On the other hand, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 8 - DEFINITION OF EVIDENCE

Your verdict must be based only on the evidence presented in this case and these and any other instructions that may be given to you during the trial. Evidence is:

1. Testimony.
2. Exhibits that are admitted into evidence.
3. Stipulations, which are agreements between the parties. If the parties stipulate that certain facts are as counsel states them, then you must treat those facts as having been proved.

Evidence may be “direct” or “circumstantial.” The law makes no distinction between the weight to be given to direct and circumstantial evidence. The weight to be given any evidence is for you to decide.

A particular item of evidence is sometimes admitted only for a limited purpose, and not for any other purpose. I will tell you if that happens, and instruct you on the purposes for which the item can and cannot be used.

The fact that an exhibit may be shown to you does not mean that you must rely on it more than you rely on other evidence.

The following are not evidence:

1. Statements, arguments, questions, and comments by the lawyers.
2. Objections and rulings on objections.
3. Testimony that I tell you to disregard.
4. Anything that you see or hear about this case outside the courtroom.

The weight of the evidence is not determined merely by the number of witnesses testifying as to the existence or non-existence of any fact. Also, the weight of the evidence is not determined merely by the number or volume of documents or exhibits. The weight of the evidence depends upon its quality, which means how convincing it is, and not merely upon its quantity. For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict the witness's testimony. Also, you are free to disbelieve the testimony of any or all witnesses. The quality and weight of the evidence are for you to decide.

INSTRUCTION NO. 9 - CREDIBILITY

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the witness's drug or alcohol use or addiction, if any, the general reasonableness or unreasonableness of the testimony, and the extent to which the testimony is consistent or inconsistent with any other evidence. In deciding whether or not to believe a witness, keep in mind that people sometimes see or hear things differently and sometimes forget things. You need to consider, therefore, whether a contradiction results from an innocent misrecollection or sincere lapse of memory, or instead from an intentional falsehood or pretended lapse of memory.

If a defendant testifies, you should judge his testimony in the same manner in which you judge the testimony of any other witness.

Similarly, just because a witness works in law enforcement or is employed by the government does not mean you should give any more or less weight or credence to that witness's testimony than you give to any other witness's testimony.

You may also hear expert testimony. You should consider expert testimony just like any other testimony. You may believe all of what an expert says, only part of it, or none of it.

If earlier statements of a witness are admitted into evidence, they will not be admitted to prove that the contents of those statements are true, unless I tell you otherwise. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and, therefore, whether they affect the credibility of that witness.

You may hear evidence that one or more witnesses have each been convicted of a crime. You may use that evidence only to help you decide whether or not to believe these witnesses and how much weight to give their testimony.

You may hear evidence that a defendant has previously been convicted of one or more crimes or engaged in similar conduct for which he was never charged. You may consider this evidence only if you unanimously find that it is more likely true than not true that the defendant in question engaged in the conduct in question. This is a lower standard than proof beyond a reasonable doubt. If you find that this evidence is more likely true than not true, you may consider it to help you decide that defendant's motive, opportunity, intent, preparation, plan, knowledge, or absence of mistake or accident. You should give such evidence the weight and value that you believe it is entitled to receive. If you find that it is not more likely true than not true, then you must disregard it. Remember that, even if you find that a defendant may have committed a similar act in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply

because you believe that he may have committed similar acts in the past. Each defendant is on trial only for the crime or crimes charged in this case, and you may consider the evidence of prior acts only on the issues of that defendant's motive, opportunity, intent, preparation, plan, knowledge, or absence of mistake or accident.

You should treat the testimony of certain witnesses **with greater caution and care than that of other witnesses**:

1. You may hear evidence that a witness has made a plea agreement with the prosecution. His or her testimony will be received in evidence any you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the witness's testimony may be influenced by the plea agreement is for you to determine.

More specifically, a witness may have entered into a plea agreement with the prosecution that provides that the prosecution may recommend a less severe sentence if the prosecutor handling that witness's case believes the witness provided substantial assistance. In such a case, the prosecutor can file in the court in which the charges are pending against this witness a motion to reduce the witness's sentence. The judge has no power to reduce a sentence for substantial assistance unless the prosecution files such a motion. If such a motion for reduction of sentence for substantial assistance is filed by the prosecution, then it is up to the judge to decide whether to reduce the sentence at all, and if so, how much to reduce it. You may give the testimony of a witness testifying pursuant to a plea agreement such weight

as you think it deserves. Whether or not testimony of a witness may have been influenced by the witness's hope of receiving a reduced sentence is for you to decide.

2. You may also hear testimony from one or more witnesses that they participated in one or more of the crimes charged against the defendants. Their testimony will be received in evidence and you may consider it. You may give the testimony of such a witness such weight as you think it deserves. Whether or not the testimony of such a witness may be influenced by the witness's desire to please the prosecutor or to strike a good bargain with the prosecutor about the witness's own situation is for you to decide.

More generally, it is your exclusive right to give *any* witness's testimony whatever weight you think it deserves.

INSTRUCTION NO. 10 - BENCH CONFERENCES AND RECESSES

During the trial it may be necessary for me to talk with the lawyers out of your hearing, either by having a bench conference here while you are present in the courtroom, or by calling a recess. Please be patient, because while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

INSTRUCTION NO. 11 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. Also, the lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made objections.

INSTRUCTION NO. 12 - NOTE-TAKING

If you want to take notes during the trial, you may, but be sure that your note-taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your own individual responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes on your chair. At the end of the trial, you may take your notes out of the notebook and keep them, or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

You will notice that we have an official court reporter making a record of the trial. However, we will not have typewritten transcripts of this record available for your use in reaching your verdict.

INSTRUCTION NO. 13 - CONDUCT OF THE JURY DURING TRIAL

You must decide this case *solely* on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations. Thus, to ensure fairness, you must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.

Third, when you are outside the courtroom, do not let anyone tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, or ask you about your participation in it until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.

Fourth, during the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day. It is important that you do justice and also maintain the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even to pass the time of day—a suspicion about your fairness might arise. If any lawyer, party, or witness does not speak to you, it is because he or she is not supposed to talk to you, either.

Fifth, it may be necessary for you to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can explain when you are required to be in court and warn them not to ask you about this case,

tell you anything they know or think they know about this case, or discuss this case in your presence. You must not communicate with anyone about the parties, witnesses, participants, claims, evidence, or anything else related to this case, or tell anyone anything about the jury's deliberations in this case until after I accept your verdict or until I give you specific permission to do so. During the trial, while you are in the courthouse and after you leave for the day, do not provide any information to anyone by any means about this case. Thus, for example, do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, Blackberry, PDA, computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, blog, or website such as Facebook, MySpace, YouTube, Twitter, Linkedin, Google Buzz, or Tagged to communicate to *anyone* any information about this case until I accept your verdict. Do not have any electronic communications with fellow jurors about this case, either, until after I accept your verdict.

Sixth, do not do any research—on the Internet, in libraries, in the newspapers, or in any other way—or make any investigation *about this case* on your own. Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony. Also do not research any information about this case, the law, or the people involved, including the parties, the witnesses, the lawyers, or the judge.

Seventh, do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone

tell you anything about any such news reports. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I assure you that when you have heard all the evidence, you will know more about this case than anyone will learn through the news media—and it will be more accurate.

Eighth, do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence during deliberations.

Ninth, as we discussed in jury selection, growing scientific research indicates that everyone, including me, has “implicit biases,” or feelings, assumptions, perceptions, fears, and stereotypes that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. While it is difficult to control one's implicit biases, being aware of them can help counteract them. Because you are making very important decisions in this case, I ask you to remember that everyone may be affected by implicit biases, and I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on stereotypes, generalizations, gut feelings, or implicit biases. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.

Tenth, if at anytime during the trial you have a problem that you would like to bring to my attention, or if you feel ill or need to go to the restroom, please send a note to the Court Security Officer, who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining two Instructions at the end of the evidence.

INSTRUCTION NO. 14 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. *Your verdict on each charge against each defendant must be unanimous.* It is your duty to consult with one another and to deliberate with a view to reaching agreement if you can do so consistent with your individual judgment. You must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself; but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations you should not hesitate to re-examine your own views, and to change your opinion if you are convinced that it is wrong. To bring twelve minds to an unanimous result, you must examine the questions submitted to you openly and frankly, with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish a particular defendant's guilt beyond a reasonable doubt on an offense charged against that defendant, then he should have your vote for a not guilty verdict on that offense. If all of you reach the same conclusion, then the verdict of the jury must be not guilty for that defendant on that offense. The opposite also applies for you to find a defendant guilty. As I instructed you earlier, the burden is upon the prosecution to prove beyond a reasonable doubt every essential element of an

offense charged against a defendant, and if the prosecution fails to do so, then you cannot find that defendant guilty of that offense.

Remember, also, that the question before you can never be whether the prosecution wins or loses the case. The prosecution, as well as society, always wins, regardless of whether your verdict is not guilty or guilty, when justice is done.

Finally, remember that you are not advocates; you are judges—judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. However, I suggest that you carefully consider all of the evidence bearing upon the questions before you. You may take all the time that you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial, or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you were. If you should fail to agree on a verdict, the case is left open and must be disposed of at some later time.

INSTRUCTION NO. 15 - DUTY DURING DELIBERATIONS

There are certain rules that you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, if a defendant is guilty of the charged offense, then the sentence to be imposed is my responsibility. You may not consider punishment of a defendant in any way in deciding whether the prosecution has proved its case against him beyond a reasonable doubt.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible, either in writing or orally in open court. *Remember that you should not tell anyone—including me—how your votes stand numerically.*

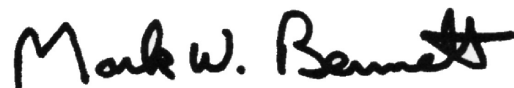
Fourth, your verdict must be based solely on the evidence and on the law in these instructions. You must return a unanimous verdict on each charge against each defendant. Nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, in your consideration of whether a defendant is not guilty or guilty of an offense charged against him, you must not consider his race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against a

defendant on a charged offense unless you would return the same verdict on that charge without regard to the defendant's race, color, religious beliefs, national origin, or sex. To emphasize the importance of this consideration, the verdict form contains a certification statement. Each of you should carefully read the statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects the manner in which each of you reached your decision.

Sixth, I am giving you the verdict form. A verdict form is simply the written notice of the decision that you reach in this case. You will take the verdict form to the jury room. *Again, you must return a unanimous verdict on each charge against each defendant.* When you have reached a unanimous verdict on the charges against the defendants, your foreperson must complete one copy of the verdict form, and all of you must sign that copy to record your individual agreement with the verdict and to show that it is unanimous. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict. When you have reached a verdict, the foreperson will advise the Court Security Officer that you are ready to return to the courtroom.

DATED this 23rd day of August, 2010.

A handwritten signature in black ink that reads "Mark W. Bennett". The signature is written in a cursive, slightly stylized font.

MARK W. BENNETT
U. S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LUIS RODRIGUEZ-RAMOS,
and GERMAN EXPECTACION
ROBLES-GARCIA,

Defendants.

No. CR 10-4011-MWB

VERDICT FORM

I. DEFENDANT RODRIGUEZ-RAMOS

As to defendant Jose Luis Rodriguez-Ramos, we, the Jury, unanimously find as follows:

DRUG CONSPIRACY		VERDICT
Step 1: Verdict	On the “drug conspiracy” offense, as charged in Count 1 of the Indictment and explained in Instruction No. 3, please mark your verdict. <i>(If you find this defendant “not guilty” of this offense, do not answer the questions in Step 2. Instead, read the “Certification” below, sign the verdict form, then go on to consider your verdict on the charges against defendant Robles-Garcia.)</i>	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty

Step 2: Objective(s) & Drug Quantities	If you found this defendant “guilty” of the “drug conspiracy” offense charged in Count 1 of the Indictment, please indicate which one or more of the following controlled substances were distributed as an objective of the “drug conspiracy” and the quantity of each such controlled substance for which the defendant can be held responsible. (<i>Quantity of controlled substances is explained in Instruction No. 4.</i>)		
	___ methamphetamine mixture	___ actual (pure) methamphetamine	___ cocaine
	___ 500 grams or more	___ 50 grams or more	___ 5 kilograms or more
	___ 50 grams or more	___ 5 grams or more	___ 500 grams or more
	___ less than 50 grams	___ less than 5 grams	___ less than 500 grams
CERTIFICATION			
By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the race, color, religious beliefs, national origin, or sex of the defendant.			

Date

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

I. DEFENDANT ROBLES-GARCIA

As to defendant German Expectacion Robles-Garcia, we, the Jury, unanimously find as follows:

COUNT 1: DRUG CONSPIRACY			VERDICT
Step 1: Verdict	On the “drug conspiracy” offense, as charged in Count 1 of the Indictment and explained in Instruction No. 3, please mark your verdict. <i>(If you find this defendant “not guilty” of this offense, do not answer the questions in Step 2. Instead, read the “Certification” below, sign the verdict form, and notify the Court Security Officer (CSO) that you have reached a verdict.)</i>		____ Not Guilty ____ Guilty
Step 2: Objective(s) & Drug Quantities	<i>If you found this defendant “guilty” of the “drug conspiracy” offense charged in Count 1 of the Indictment, please indicate which one or more of the following controlled substances were distributed as an objective of the “drug conspiracy” and the quantity of each such controlled substance for which the defendant can be held responsible. (Quantity of controlled substances is explained in Instruction No. 4.)</i>		
	____ methamphetamine mixture	____ actual (pure) methamphetamine	____ cocaine
	____ 500 grams or more	____ 50 grams or more	____ 5 kilograms or more
	____ 50 grams or more	____ 5 grams or more	____ 500 grams or more
	less than 50 grams	less than 5 grams	less than 500 grams
COUNT 2: KIDNAPPING			VERDICT
On the “kidnapping” offense, as charged in Count 2 of the Indictment and explained in Instruction No. 5, please mark your verdict. <i>(Please read the “Certification” below, sign the verdict form, and notify the Court Security Officer (CSO) that you have reached a verdict.)</i>			____ Not Guilty ____ Guilty

CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the race, color, religious beliefs, national origin, or sex of the defendant.

Date

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror